

Executive Summary – Enforcement Matter – Case No. 43088

Mallard Point WWTP, LLC.

RN102342722

Docket No. 2011-2246-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Mallard Point WWTP, approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69, Hunt County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,934

Amount Deferred for Expedited Settlement: \$1,586

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,348

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 43088
Mallard Point WWTP, LLC.
RN102342722
Docket No. 2011-2246-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 24, 2011

Date(s) of NOE(s): November 2, 2011

Violation Information

1. Failed to comply with permitted effluent limits for residual chlorine, total suspended solids, and 5-day biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

2. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the discharge monitoring report (“DMR”) data for daily average ammonia nitrogen concentration and daily average ammonia nitrogen loading for the monitoring period ending December 31, 2010 and pH maximum for the monitoring period ending February 28, 2011 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014215001 Monitoring and Reporting Requirements Nos. 1 and 3].

3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2011, by September 30, 2011 [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014215001 Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual sludge reports; and

ii. Submit the revised DMRs for the monitoring periods ending December 31, 2010 and February 28, 2011 and the 2011 annual sludge report.

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Mallard Point WWTP, LLC.
RN102342722
Docket No. 2011-2246-MWD-E

b. Within 45 days, submit written certification of compliance with Ordering Provisions a.i. and a.ii.

c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014215001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

d. The written certification of compliance required by Ordering Provisions b. and c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Michael McBrayer, Member of General Partner, Mallard Point WWTP, LLC., 4712 Deer Valley Lane, Richardson, Texas 75082

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Nov-2011	Screening	14-Nov-2011	EPA Due	
	PCW	15-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Mallard Point WWTP, LLC.		
Reg. Ent. Ref. No.	RN102342722		
Facility/Site Region	1-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43088	No. of Violations	1
Docket No.	2011-2246-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$1,250
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Notes: Enhancement for 20 months of self-reported effluent violations, one NOV with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability language.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$13
Approx. Cost of Compliance \$300
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

0.0%	Adjustment	\$0
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Notes:

Final Penalty Amount	\$2,500
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$2,500
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DEFERRAL

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

20.0% Reduction	Adjustment	-\$500
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Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,000

Screening Date 14-Nov-2011

Docket No. 2011-2246-MWD-E

PCW

Respondent Mallard Point WWTP, LLC.

Policy Revision 3 (September 2011)

Case ID No. 43088

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	21	105%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 147%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 20 months of self-reported effluent violations, one NOV with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability language.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 147%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 14-Nov-2011
Respondent Mallard Point WWTP, LLC.
Case ID No. 43088
Reg. Ent. Reference No. RN102342722
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro
Violation Number 1

Docket No. 2011-2246-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001 Sludge Provisions

Violation Description

Failed to submit the annual sludge report for the monitoring period ending July 31, 2011, by September 30, 2011, as documented during a record review conducted on October 24, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

81 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$1,250

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC.
 Case ID No. 43088
 Reg. Ent. Reference No. RN102342722
 Media Water Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	30-Sep-2011	31-Jul-2012	0.84	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	30-Sep-2011	31-Jul-2012	0.84	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report and conduct employee training. Date required is date the report was due. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$13



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Nov-2011	Screening	14-Nov-2011	EPA Due	
	PCW	15-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Mallard Point WWTP, LLC		
Reg. Ent. Ref. No.	RN102342722		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43088	No. of Violations	2
Docket No.	2011-2246-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	147.0%	Enhancement	Subtotals 2, 3, & 7	\$3,234
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Notes: Enhancement for 20 months of self-reported effluent violations, one NOV with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability language.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$817
Approx. Cost of Compliance: \$10,300
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,434
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,434
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,434
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,086
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,348
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Screening Date 14-Nov-2011

Docket No. 2011-2246-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 43088

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	21	105%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 147%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 20 months of self-reported effluent violations, one NOV with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 147%

Screening Date 14-Nov-2011

Docket No. 2011-2246-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 43088

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 24, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and chlorine were considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

122

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$795

Violation Final Penalty Total \$4,940

This violation Final Assessed Penalty (adjusted for limits) \$4,940

Economic Benefit Worksheet

Respondent: Maliard Point WWTP, LLC
 Case ID No.: 43088
 Reg. Ent. Reference No.: RN102342722
 Media: Water Quality
 Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	28-Feb-2011	30-Sep-2012	1.59	\$795	n/a	\$795

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$795

Screening Date 14-Nov-2011

Docket No. 2011-2246-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 43088

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014215001 Monitoring and Reporting Requirements Nos. 1 and 3

Violation Description

Failed to submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 24, 2011. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") data for daily average ammonia nitrogen concentration and daily average ammonia nitrogen loading for the monitoring period ending December 31, 2010 and pH maximum for the monitoring period ending February 28, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix
Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2

58 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended, one for each DMR.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$494

This violation Final Assessed Penalty (adjusted for limits) \$494

Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC
 Case ID No. 43088
 Reg. Ent. Reference No. RN102342722
 Media Water Quality
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Jan-2011	31-Jul-2012	1.53	\$19	n/a	\$19
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	20-Jan-2011	31-Jul-2012	1.53	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to prepare and submit revised DMRs (\$25/DMR) and conduct employee training. Date required is date the first DMR was due. Final date is the date the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$23

EFFLUENT VIOLATION TABLE			
Mallard Point WWTP, LLC			
TPDES Permit No. WQ0014215001			
Docket No. 2011-2246-MWD-E			
Months	BOD₅ Daily Avg. Conc.	Chlorine Residual Min.	Total Suspended Solids Daily Avg. Conc.
	Limit = 10 mg/L	Limit = 1.0 mg/L	Limit = 15 mg/L
February 2011	15.00	c	17.50
March 2011	11.75	c	c
April 2011	15.65	c	c
May 2011	13.66	c	c
June 2011	19.30	0.900	c

mg/L = milligrams per liter

Conc. = concentration

c = compliant

Avg. = average

Min. = minimum

BOD₅ = five day biochemical oxygen demand

Compliance History

Customer/Respondent/Owner-Operator:	CN602847345	Mallard Point WWTP, LLC	Classification: AVERAGE	Rating: 3.54
Regulated Entity:	RN102342722	MALLARD POINT WWTP	Classification: AVERAGE	Site Rating: 3.54
ID Number(s):	WASTEWATER	PERMIT	WQ0014215001	
	WASTEWATER	EPA ID	TX0123528	
Location:	approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69 in Hunt County, Texas			

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 30, 2006 to November 30, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Steve Villatoro Phone: (512) 239-4930

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/19/2007 ADMINORDER 2007-0445-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EFFLUENT LIMITS PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Effective Date: 08/13/2011

ADMINORDER 2011-0158-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permitted effluent limits.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Reporting Requirements PERMIT

Description: Failure to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: Effluent Reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the daily average flow measurement in the DMR for the month of February 2010.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

0

1	03/07/2007	(539774)
2	02/16/2007	(632675)
3	03/16/2007	(632676)
4	04/24/2007	(632677)
5	05/16/2007	(632678)
6	02/09/2007	(632679)
7	06/18/2007	(632680)
8	07/09/2007	(632681)
9	08/16/2007	(632682)
10	11/19/2007	(632683)
11	10/17/2007	(632685)
12	11/19/2007	(632687)
13	12/18/2006	(632688)
14	12/18/2007	(632689)
15	01/22/2007	(632690)
16	02/19/2008	(677597)
17	01/17/2008	(677598)
18	03/20/2008	(696375)
19	04/22/2008	(696376)
20	05/19/2008	(696377)
21	06/19/2008	(718028)
22	07/22/2008	(718029)
23	08/21/2008	(718030)
24	09/22/2008	(718031)
25	02/20/2009	(721970)
26	01/16/2009	(723798)
27	09/30/2008	(733332)
28	10/20/2008	(733333)
29	11/21/2008	(733334)
30	12/22/2008	(733335)
31	02/24/2009	(756467)
32	01/22/2009	(756468)
33	07/27/2009	(762932)
34	03/23/2009	(773402)
35	04/22/2009	(773403)

36	05/21/2009	(773404)
37	09/17/2009	(776556)
38	02/22/2010	(820420)
39	06/23/2009	(820421)
40	07/21/2009	(820422)
41	08/21/2009	(820423)
42	09/21/2009	(820424)
43	10/21/2009	(820425)
44	12/21/2009	(820426)
45	01/21/2010	(820427)
46	03/22/2010	(836426)
47	04/21/2010	(836427)
48	05/24/2010	(836428)
49	06/21/2010	(847966)
50	06/30/2010	(862398)
51	08/23/2010	(869018)
52	01/21/2011	(873206)
53	09/22/2010	(875864)
54	10/22/2010	(883461)
55	11/20/2009	(883462)
56	11/22/2010	(889839)
57	12/22/2010	(898237)
58	01/24/2011	(904100)
59	02/22/2011	(910977)
60	03/21/2011	(918259)
61	04/20/2011	(930899)
62	08/11/2011	(932939)
63	05/23/2011	(939967)
64	06/20/2011	(947377)
65	07/22/2011	(954634)
66	10/06/2011	(956112)
67	08/22/2011	(961216)
68	11/18/2011	(963440)
69	11/03/2011	(963529)
70	09/22/2011	(967318)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/28/2007	(632676)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007	(632677)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2007	(632683)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2007 (632689) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 02/29/2008 (696375) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2008 (696376) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2008 (718029) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2009 (756467) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 07/27/2009 (762932) CN602847345
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.3

Description: Failure to adequately secure the lift station and manholes.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.6

Description: Failure to utilize an approved method of disinfection.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 317 317.4(c)
 30 TAC Chapter 319, SubChapter A 319.11(c)
 WQ0014215-001 PERMIT

Description: Failure to provide a legible staff gauge.
 Date: 01/31/2010 (820420) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2010 (847966) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2010 (862398) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2010 (869018) CN602847345
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2010 (875864) CN602847345
 Self Report? YES Classification: Moderate

Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2010	(883461)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2011	(918259)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2011	(930899)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2011	(939967)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2011	(947377)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2011	(954634)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/08/2011	(932939)	CN602847345
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B)		
	30 TAC Chapter 305, SubChapter F 305.125(11)(C)		
	WQ0014215-001 PERMIT		
Description:	Failure to submit Annual Sludge Report for 2007, 2008, and 2009.		
Self Report?	NO		Classification: Minor
Citation:	TWC Chapter 26 26.121		
Description:	Failure to submit permit renewal 180 days prior to expiration date of permit.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	WQ0014215-001 PERMIT		
Description:	Failure to maintain compliance with the permitted effluent limits.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	WQ0014215-001 PERMIT		
Description:	Failure to comply with effluent permit limits for BOD, TSS, and DO.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to accurately calculate daily average loading values for TSS.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	WQ0014215-001 PERMIT		
Description:	Failure to submit required noncompliance notification for effluent permit limit excursions.		
Date	08/31/2011	(967318)	CN602847345
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MALLARD POINT WWTP, LLC
RN102342722**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2246-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mallard Point WWTP, LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69 in Hunt County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 7, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Nine Hundred Thirty-Four Dollars (\$7,934) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Forty-Eight Dollars (\$6,348) of the administrative penalty and One Thousand Five Hundred Eighty-Six Dollars (\$1,586) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on October 24, 2011 and shown in the table below:

EFFLUENT VIOLATION TABLE			
Months	BOD₅ Daily Avg. Conc.	Chlorine Residual Min.	Total Suspended Solids Daily Avg. Conc.
	Limit = 10 mg/L	Limit = 1.0 mg/L	Limit = 15 mg/L
February 2011	15.00	c	17.50
March 2011	11.75	c	c
April 2011	15.65	c	c
May 2011	13.66	c	c
June 2011	19.30	0.900	c

mg/L = milligrams per liter

Conc. = concentration

c = compliant

Avg. = average

Min. = minimum

BOD₅ = five day biochemical oxygen demand

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014215001 Monitoring and Reporting Requirements Nos. 1 and 3, as documented during a record review conducted on October 24, 2011. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") data for daily average ammonia nitrogen concentration and daily average ammonia nitrogen loading for the monitoring period ending December 31, 2010 and pH maximum for the monitoring period ending February 28, 2011.
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2011, by September 30, 2011, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014215001 Sludge Provisions, as documented during a record review conducted on October 24, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mallard Point WWTP, LLC., Docket No. 2011-2246-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit WQ0014215001 Monitoring and Reporting Requirements No. 1 and Sludge Provisions; and
- ii. Submit the revised DMRs for the monitoring periods ending December 31, 2010 and February 28, 2011 and the 2011 annual sludge report to:

Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. The certification shall be in accordance with Ordering Provision No. 2.d below;
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014215001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 2.d below; and

- d. The written certification of compliance required by Ordering Provisions Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Robert B. Hyde
For the Executive Director

3/29/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

By: Michael A. McBrayer
Signature

2/7/12
Date

Michael A. McBrayer
Name (Printed or typed)
Authorized Representative of
Mallard Point WWTP, LLC

Member of Gen Partner of Mallard Point
Title Partners, Ltd, sole member

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.